

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

RICHARD JOHNSTON

Plaintiff,

v.

ROBERT HARTMAN, *et al.*,

Defendants.

Case No. 3:23-cv-00408-MMD-CLB

ORDER

This action is a *pro se* civil rights complaint filed pursuant to 42 U.S.C. § 1983 by a state prisoner. Plaintiff paid the full filing fee in this matter. (ECF No. 3.) The Court entered a screening order on Johnston's second amended complaint on October 22, 2024. (ECF No. 17.) The screening order imposed a 90-day stay and the Court entered a subsequent order in which the parties were assigned to mediation by a court-appointed mediator. (ECF Nos. 17, 19.) After his first motion to exclude this case mediation was denied, Johnston filed an untimely motion to exclude. (ECF Nos. 24, 25.) A settlement was not reached at mediation. (ECF No. 26.)

IT IS THEREFORE ORDERED that:

1. Johnston's second motion to exclude case from mediation (ECF No. 25) is **DENIED as untimely and moot.**

2. The Clerk of the Court shall electronically **SERVE** a copy of this order and a copy of Plaintiff's second amended complaint (ECF No. 10) on the Office of the Attorney General of the State of Nevada, by adding the Attorney General of the State of Nevada to the docket sheet. This does not indicate acceptance of service.

3. Service must be perfected within ninety (90) days from the date of this order pursuant to Fed. R. Civ. P. 4(m).

4. Subject to the findings of the screening order (ECF No. 17), within **twenty-one (21) days** of the date of entry of this order, the Attorney General's Office shall file a

1 notice advising the Court and Plaintiff of: (a) the names of the defendants for whom it
2 accepts service; (b) the names of the defendants for whom it does not accept service,
3 and (c) the names of the defendants for whom it is filing the last-known-address
4 information under seal. As to any of the named defendants for whom the Attorney
5 General's Office cannot accept service, the Office shall file, *under seal*, but shall not serve
6 the inmate Plaintiff the last known address(es) of those defendant(s) for whom it has such
7 information. If the last known address of the defendant(s) is a post office box, the Attorney
8 General's Office shall attempt to obtain and provide the last known physical address(es).

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10 5. If service cannot be accepted for any of the named defendant(s), Plaintiff
11 shall file a motion identifying the unserved defendant(s), requesting issuance of a
12 summons, and specifying a full name and address for the defendant(s). For the
13 defendant(s) as to which the Attorney General has not provided last-known-address
14 information, Plaintiff shall provide the full name and address for the defendant(s).

15 6. If the Attorney General accepts service of process for any named
16 defendant(s), such defendant(s) shall file and serve an answer or other response to the
17 second amended complaint within **sixty (60) days** from the date of this order.

18 7. Plaintiff shall serve upon defendant(s) or, if an appearance has been
19 entered by counsel, upon their attorney(s), a copy of every pleading, motion or other
20 document submitted for consideration by the Court. If Plaintiff electronically files a
21 document with the Court's electronic-filing system, no certificate of service is required.
22 Fed. R. Civ. P. 5(d)(1)(B); Nev. Loc. R. IC 4-1(b); Nev. Loc. R. 5-1. However, if Plaintiff
23 mails the document to the Court, Plaintiff shall include with the original document
24 submitted for filing a certificate stating the date that a true and correct copy of the
25 document was mailed to the defendants or counsel for the defendants. If counsel has
26 entered a notice of appearance, Plaintiff shall direct service to the individual attorney
27 named in the notice of appearance, at the physical or electronic address stated therein.

1 The Court may disregard any document received by a district judge or magistrate judge
2 which has not been filed with the Clerk, and any document received by a district judge,
3 magistrate judge, or the Clerk which fails to include a certificate showing proper service
4 when required.

5 8. This case is no longer stayed.

6 **IT IS SO ORDERED.**

7 **DATED:** March 5, 2025

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10 **UNITED STATES MAGISTRATE JUDGE**